



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

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ATTORNEY GENERAL

April 26, 1973

The Honorable Joe W. Hayes
County Attorney, Hemphill County
P. O. Box 613
Canadian, Texas 79014

Opinion No. H-32

Re: Is the at-large method of
electing County Commissioners
constitutional in light of
Article 5, Section 18 of the
Texas Constitution?

Dear Mr. Hayes:

You have asked our opinion concerning the election of County Commissioners of Hemphill County. Your letter states that one precinct in the county contains 85 to 90 per cent of the entire county population and that, to avoid having to redistrict the county, the four commissioners are elected "at-large" with each voter in the county having one vote for each commissioner to be elected.

Article 5, §18 of the Constitution of the State of Texas provides, in part:

"Each county shall in like manner be divided into four commissioners precincts in each of which there shall be elected by the qualified voters thereof one County Commissioner, who shall hold his office for four years and until his successor shall be elected and qualified. . . . " (Emphasis added)

This provision leaves no room for interpretation and it must be obeyed. There must be one commissioner from each of four precincts, elected by the voters of each precinct.

Your question was: "Is the at-large method of electing County Commissioners constitutional in light of Article 5, Section 18 of the Texas Constitution? "

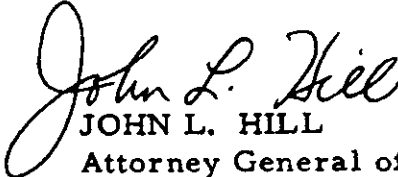
We answer that it is not.

We would also call to your attention the decision in Avery v. Midland County, 390 U. S. 474, 20 L. Ed. 2d 45, 88 S. Ct. 1114 (1968), holding that the "one man - one vote" rule applied to the election of commissioners and that it was not permissible for members of the commissioners court to be apportioned among single-member districts of substantially unequal population.

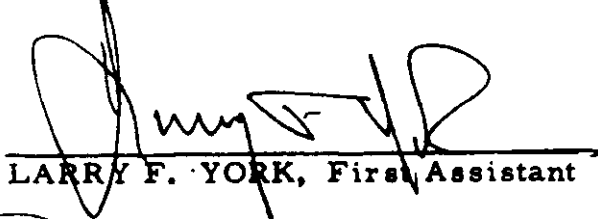
S U M M A R Y

Article 5, § 18 of the Constitution of the State of Texas specifically requires that there shall be four commissioner's precincts in each county and that the county commissioners shall each be elected by the qualified voters of one of those precincts - not at-large.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


LARRY F. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinion Committee